



O R A N G E C O U N T Y  
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July 8, 2011

California Regional Water Quality Control Board, Santa Ana Region  
ATTN: Wanda Cross  
3737 Main Street, Suite 500  
Riverside, CA 92501

**Re:** Draft Revised Organochlorine Compounds TMDL for San Diego Creek, Upper and Lower Newport Bay (Resolution No. R8-2007-0024)

Dear Ms. Cross,

Orange County Coastkeeper (Coastkeeper) is an environmental non-profit organization with the mission to preserve, protect and restore the watersheds and coastal environment of Orange County. As the Executive Director, I write to acknowledge receipt of the Notice of Public Hearing on the Organochlorine Compounds TMDL for San Diego Creek, Upper and Lower Newport Bay. Coastkeeper maintains a cooperative association with the Santa Ana Regional Water Quality Control Board (Regional Board) through a shared vision in the improvement of water quality within the Santa Ana River watershed. The approval of an amendment to Resolution No. R8-2007-0024 permitting the postponement of the organochlorine compound TMDL for San Diego Creek, Upper and Lower Newport Bay would threaten our shared vision and further endanger water quality in a sensitive and ecologically valuable coastal waterbody.

The Regional Board should not accept staff's recommendation to modify the distant final TMDL compliance date from December 31, 2015. As written, the final TMDL compliance date was seven years following projected Office of Administrative Law (OAL) approval and provided notice sufficient to place regulated entities that an Organochlorine Compound TMDL would be impacting San Diego Creek, Upper and Lower Newport Bay in the next decade and to anticipate an approaching compliance date with relative certainty. Regional Board staff's recommendation to modify Resolution No. R8-2007-0024 to replace the compliance date with "seven years from the date of OAL approval of this Basin Plan Amendment (BPA)" is not protective of water quality for severe pollutants, such as DDT and PCBs.

The adoption of this revision to an amendment to the Basin Plan would prolong the acquisition of organochlorine compound TMDLs at least seven years and perhaps as long as a decade following the adoption of a Resolution passed on September 7, 2007. We recommend modifying the revision to the adopted amendment by projecting two years for OAL approval. As written, the proposed language reads, "as soon as possible but no later than (seven years from the date of OAL approval of this BPA)." Coastkeeper encourages the Regional Board to modify the language to add "but in no event later than December 31, 2020." This final deadline would provide a date certain for a compliance with organochlorine compounds TMDL and others with certainty that a second multi-year delay will not further frustrate the implementation of this needed TMDL. The 2020 deadline is already a five year delay from the originally agreed to deadline and has provided municipalities with a multiyear relaxation of

regulatory mandates. In return a date certain for final compliance is an appropriate remedy to ensure actual improvement in water quality in San Diego Creek, Upper and Lower Newport Bay.

Coastkeeper encourages the Regional Board to direct staff to further clarify the requirement that water quality standards be applied to the water column under the TMDL. As written, the TMDL is susceptible to interpretation placing a heavier emphasis on sediment concentrations. Staff's refinement on this issue will emphasize the importance of water quality as well as sediment quality and provide guidance on this critically important issue.

Additionally, Coastkeeper encourages the Regional Board to direct staff to consider requiring construction sites which drain to San Diego Creek, Upper or Lower Newport Bay and their tributaries to sample for all TMDL constituents due to the nature of these legacy contaminants.

Finally, Coastkeeper has been informed some regulated entities are advocating for the harmonization of organochlorine compound and selenium TMDL deadlines. The Regional Board must avoid conflating deadlines for unrelated TMDLs impacting San Diego Creek or Upper and Lower Newport Bay. These waterbodies are adversely impacted by a variety of compounds and are 303d listed for a number of harmful contaminants that require the appropriate implementation of TMDLs to ensure these waterbodies are able to meet water quality standards in the foreseeable future. The implementation of one TMDL for a contaminant should have no relation to the implementation of a TMDL for a disparate contaminant. The Regional Board approved Resolution No. R8-2007-0024 on September 7, 2007 and a delay until the implementation date of the oft delayed selenium TMDL is unacceptable and indefensible.

If you have any questions regarding our position on the organochlorine compound TMDL or any other issue relating to Orange County's water quality, please do not hesitate to contact our office at (714) 850-1965.

Sincerely yours,

A handwritten signature in black ink that reads "Garry Brown". The signature is written in a cursive, flowing style.

Garry Brown  
Executive Director  
Orange County Coastkeeper